

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

(1) LESLIE DRISKILL,

Plaintiff,

v.

(1) STATE OF OKLAHOMA, ex rel.,
BOARD OF REGENTS OF THE
UNIVERSITY OF OKLAHOMA,

Defendants.

Case No.: CIV-21-240-D

**(Removed from Oklahoma County
District Court Case No: CJ-21-803)**

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331 and 1441, Defendant, the State of Oklahoma *ex rel.* Board of Regents of the University of Oklahoma (“University”), respectfully submits this Notice of Removal of the referenced action from the District Court of Oklahoma County, State of Oklahoma, to this Court. In support of its removal, the University states the following:

JURISDICTION

1. General. Under the provisions of 28 U.S.C. § 1331, this Court has original jurisdiction over this civil action. Pursuant to the provisions of 28 U.S.C. § 1441, the action may be removed to this Court, because Plaintiff claims discrimination and retaliation pursuant to 29 U.S.C. § 701 et seq. and 29 U.S.C. § 2601 et seq. (Exhibit 3, Petition, ¶¶ 28, 31).

2. Identity of Defendant. The State of Oklahoma *ex rel.* Board of Regents of the University of Oklahoma is the proper name of the removing defendant in this action.

3. Federal Claims. Plaintiff’s claims against the University are for disability

discrimination in violation of the Rehabilitation Act and violation of the FMLA. (Exhibit 3, Petition, ¶¶ 28, 31).

4. Immunity. By consenting to removal, the University hereby reserves and does not waive any right to assert, or the protection of, any available constitutional, statutory, common law, or other provision that does, might, or could provide immunity to any of the allegations of Plaintiff's Petition or any proposed amendment thereto, including allegations of entitlement to relief thereunder, including, but not limited to Eleventh Amendment immunity and/or its sovereign immunity. *See Neiberger v. Hawkins*, 70 F.Supp.2d 1177, 1187-88 (D. Colo. 1999). The consent to removal in no way waives the right to immunity from liability retained by the University of Oklahoma with regard to all claims. *Trant v. Oklahoma*, 754 F.3d 1158, 1172-73 (10th Cir. 2014); *see also Hall v. Oklahoma Dept. of Rehabilitation Services*, No. CIV-17-497, slip op. (W.D. Okla. Feb. 20, 2018); *see also Kimel v. Florida Bd. of Regents*, 528 U.S. 62 (2000).

TIMELINESS OF REMOVAL

5. Plaintiff filed her Petition on February 25, 2021.

6. Plaintiff served the University with the Petition on March 3, 2021, claiming for the first time, discrimination and retaliation pursuant to 29 U.S.C. § 701 et seq. and 29 U.S.C. § 2601 et seq.

7. Notice of Removal is timely filed under 28 U.S.C. § 1446.

ATTACHMENTS

8. Pursuant to 28 U.S.C. § 1446(a) and LCvR81.2, attached hereto as Exhibits 1-5, respectively, the following is a complete list of the process, pleadings, and orders that

have been served and/or filed, along with a copy of the docket sheet of the case.

Exhibit 1 – Entry of Appearance of Amber Hurst on behalf of Plaintiff;

Exhibit 2 – Entry of Appearance of Brandon Roberts on behalf of Plaintiff;

Exhibit 3 – Petition;

Exhibit 4 – Entry of Appearance of Mark Hammons on behalf of Plaintiff;

Exhibit 5 – Copy of the docket sheet.

Defendant, the University, removes the State Court Action to the United States District Court for the Western District of Oklahoma.

Respectfully submitted,

s/Tina S. Ikpa

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CERTIFICATE OF SERVICE

I hereby certify that on March 22, 2021, I electronically transmitted the attached document to the Clerk of Court using the ECF system for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

Mark Hammons
Amber Hurst
Brandon Roberts
HAMMONS, HURST & ASSOC.
325 Dean A McGee Ave.
Oklahoma City, Oklahoma 73102

Attorneys for Plaintiff

s/Tina S. Ikpa

Tina S. Ikpa